

3/21/19

11:39 A.M.

Chapter No. 349  
19/SS36/R257SG  
LR / TB/LR

## ***SENATE BILL NO. 2116***

Originated in Senate Liz Welch Secretary

SENATE BILL NO. 2116

AN ACT TO CREATE NEW SECTION 41-41-34.1, MISSISSIPPI CODE OF 1972, TO PROHIBIT AN ABORTION OF AN UNBORN HUMAN INDIVIDUAL WITH A DETECTABLE FETAL HEARTBEAT EXCEPT TO PREVENT THE DEATH OF THE PREGNANT WOMAN OR TO PREVENT A SERIOUS RISK OF THE SUBSTANTIAL AND IRREVERSIBLE IMPAIRMENT OF A MAJOR BODILY FUNCTION OF THE WOMAN; TO AMEND SECTION 73-25-29, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A PHYSICIAN PERFORMING AN ABORTION ON A PREGNANT WOMAN AFTER DETERMINING THAT THE UNBORN HUMAN INDIVIDUAL HAS A DETECTABLE FETAL HEARTBEAT IS SUBJECT TO LICENSE REVOCATION OR DISCIPLINARY ACTION; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

**SECTION 1.** The following provision shall be codified as  
Section 41-41-34.1, Mississippi Code of 1972:

41-41-34.1. (1) As used in this section:

(a) "Fetal heartbeat" means cardiac activity or the steady and repetitive rhythmic contraction of the fetal heart within the gestational sac.

(b) "Physician" means a person licensed to practice medicine under Section 73-25-1 et seq.

(c) "Unborn human individual" means an individual organism of the species homo sapiens from fertilization until live birth.

(2) (a) Except as provided in paragraph (b) or (c) of this subsection (2), no person shall knowingly perform an abortion on a pregnant woman with the specific intent of causing or abetting the termination of the life of the unborn human individual that the pregnant woman is carrying and whose fetal heartbeat has been detected. Any person who acts based on the exception in paragraph (b) or (c) of this subsection (2) shall so note in the pregnant woman's medical records and shall specify in the pregnant woman's medical records which of the exceptions the person invoked.

(b) (i) A person is not in violation of paragraph (a) of this subsection (2) if that person performs a medical procedure designed to or intended, in that person's reasonable medical judgment, to prevent the death of a pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman.

(ii) Any person who performs a medical procedure as described in paragraph (b) (i) of this subsection (2) shall declare in writing, under penalty of perjury, that the medical procedure was necessary, to the best of that person's reasonable medical judgment, to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman. That

person shall also provide in that written document, under penalty of perjury, the medical condition of that pregnant woman that the medical procedure performed as described in paragraph (b) (i) of this subsection (2) will assertedly address, and the medical rationale for the conclusion that the medical procedure was necessary to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman.

(iii) The person who performs a medical procedure as described in paragraph (b) (i) of this subsection (2) shall place the written documentation required under paragraph (b) (ii) of this subsection (2) in the pregnant woman's medical records, and shall maintain a copy of the written documentation in the person's own records for at least seven (7) years.

(c) A person is not in violation of paragraph (a) of this subsection (2) if that person has performed an examination for the presence of a fetal heartbeat in the unborn human individual using standard medical practice and that examination does not reveal a fetal heartbeat or the person has been informed by a physician who has performed the examination for a fetal heartbeat that the examination did not reveal a fetal heartbeat.

(d) This subsection (2) does not repeal any other provision of the Mississippi Code that restricts or regulates the performance of an abortion by a particular method or during a particular stage of a pregnancy.

(e) Any person who violates this subsection (2) is guilty of performing an abortion after the detection of a fetal heartbeat, a violation punishable as provided in Section 41-41-39.

**SECTION 2.** Section 73-25-29, Mississippi Code of 1972, is amended as follows:

73-25-29. The grounds for the nonissuance, suspension, revocation or restriction of a license or the denial of reinstatement or renewal of a license are:

(1) Habitual personal use of narcotic drugs, or any other drug having addiction-forming or addiction-sustaining liability.

(2) Habitual use of intoxicating liquors, or any beverage, to an extent which affects professional competency.

(3) Administering, dispensing or prescribing any narcotic drug, or any other drug having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice.

(4) Conviction of violation of any federal or state law regulating the possession, distribution or use of any narcotic drug or any drug considered a controlled substance under state or federal law, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(5) Procuring, or attempting to procure, or aiding in, an abortion that is not medically indicated.

(6) Conviction of a felony or misdemeanor involving moral turpitude, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(7) Obtaining or attempting to obtain a license by fraud or deception.

(8) Unprofessional conduct, which includes, but is not limited to:

(a) Practicing medicine under a false or assumed name or impersonating another practitioner, living or dead.

(b) Knowingly performing any act which in any way assists an unlicensed person to practice medicine.

(c) Making or willfully causing to be made any flamboyant claims concerning the licensee's professional excellence.

(d) Being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public.

(e) Obtaining a fee as personal compensation or gain from a person on fraudulent representation of a disease or injury condition generally considered incurable by competent medical authority in the light of current scientific knowledge and practice can be cured or offering, undertaking, attempting or agreeing to cure or treat the same by a secret method, which he refuses to divulge to the board upon request.

(f) Use of any false, fraudulent or forged statement or document, or the use of any fraudulent, deceitful, dishonest or immoral practice in connection with any of the licensing requirements, including the signing in his professional capacity any certificate that is known to be false at the time he makes or signs such certificate.

(g) Failing to identify a physician's school of practice in all professional uses of his name by use of his earned degree or a description of his school of practice.

(9) The refusal of a licensing authority of another state or jurisdiction to issue or renew a license, permit or certificate to practice medicine in that jurisdiction or the revocation, suspension or other restriction imposed on a license, permit or certificate issued by such licensing authority which prevents or restricts practice in that jurisdiction, a certified copy of the disciplinary order or action taken by the other state or jurisdiction being prima facie evidence thereof, notwithstanding the pendency of any appeal.

(10) Surrender of a license or authorization to practice medicine in another state or jurisdiction or surrender of membership on any medical staff or in any medical or professional association or society while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this section.

(11) Final sanctions imposed by the United States Department of Health and Human Services, Office of Inspector General or any successor federal agency or office, based upon a finding of incompetency, gross misconduct or failure to meet professionally recognized standards of health care; a certified copy of the notice of final sanction being prima facie evidence thereof. As used in this paragraph, the term "final sanction" means the written notice to a physician from the United States Department of Health and Human Services, Officer of Inspector General or any successor federal agency or office, which implements the exclusion.

(12) Failure to furnish the board, its investigators or representatives information legally requested by the board.

(13) Violation of any provision(s) of the Medical Practice Act or the rules and regulations of the board or of any order, stipulation or agreement with the board.

(14) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners.

(15) Performing or inducing an abortion on a woman in violation of any provision of Sections 41-41-131 through 41-41-145.

(16) Performing an abortion on a pregnant woman after determining that the unborn human individual that the pregnant



woman is carrying has a detectable fetal heartbeat as provided in Section 41-41-34.1.

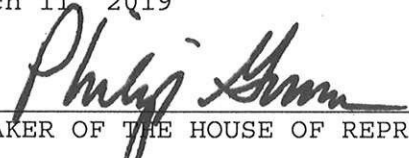
In addition to the grounds specified above, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

**SECTION 3.** This act shall take effect and be in force from and after July 1, 2019.

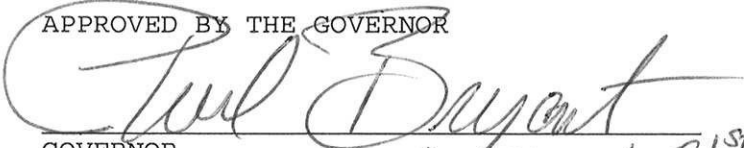
PASSED BY THE SENATE  
March 19, 2019

  
\_\_\_\_\_  
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES  
March 11, 2019

  
\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

  
\_\_\_\_\_  
GOVERNOR

March 21<sup>st</sup> 2019

11:39 AM